HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
and
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.16871 OF 2007

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Between:
M/s. Kamadhenu Feeds (P) Ltd.,
Narakoduru, Chebrol Mandal,
Guntur District represented by its
Managing director,
Bonna Venkateswara Rao

..... Petitioner

AND

The Commercial Tax officer,
Gandhichowk Circle,
Tenali, Guntur District and 3 others.

.....Respondents

::ORDER::

Counsel for the Petitioner : Sri M.V.J.K.Kumar

Counsel for the Respondents : Sri Government Pleader for Commercial Taxes

Dated 9.8.2007

Per Sri G.S.Singhvi, CJ

This is a petition for quashing order dated 4.7.2007 issued by Commercial Tax Officer, Gandhi Chowk, Tenali (respondent No.1), whereby he created demand of Rs.13,87,208/- against the petitioner under the Andhra Pradesh General Sales Tax Act, 1957 in relation to the assessment year 2002-03.

The petitioner is a manufacturer of cattle feed. For the assessment year 2002-03, respondent No.1 completed the assessment vide his order dated 4.3.2004 by granting exemption in terms of eligibility certificate issued by the Industries Department. After nine months, respondent No.1, by relying on the objections contained in the audit report, issued notice dated 23.12.2004 proposing to revise the assessment. The petitioner filed detailed reply to contest the proposed revision. For the next two years, nothing appears to have been done. On 15.2.2007, revised show cause notice was issued to the petitioner. The latter filed reply-cum-objections dated 18.6.2007, but without considering the same, respondent No.1 passed the impugned order.

We have heard learned counsel for the parties and perused the record. Although the petitioner has challenged the impugned order on several grounds, we do not consider it necessary to deal with and decide the same because we are convinced that the impugned order is liable to be nullified on the ground of violation of one of the facets of

the rules of natural justice which casts a duty on every quasi judicial authority to record reasons and communicate the same to the affected persons. The requirement of recording of reasons and communication thereof to the affected party has been recognized by the Supreme Court and almost all the High Courts in the country - **Harinagar Sugar Mills v. Shyam Sundar**[1], **M.P.Industries Limited v. Union of India**[2], **Bhagat Raja v. Union of India**[3], **Mahavir Prasad Santoshkumar v. State of U.P.**[4], **Travancore Rayons v. UOI**[5], **Messrs Ajanta Industries v. Central Board of Direct Taxes, New Delhi**[6], **Messrs Siemens Engineering & Manufacturing Company v. Union of India**[7], **S.N. Mukherjee v. Union of India**[8], **Charan Singh v. Healing Touch Hospital**[9] **State of Punjab v. Bagh Singh**[10], **State of Orissa v. Dhaniram Luhar**[11], **State of Rajasthan v. Sohan Lal**[12], **Cyril Lasrado v. Juliana Maria Lasrado**[13], **Mangalore Ganesh Beedi Works v. CIT**[14] and **Manorama Sachan v. Lucknow Development Authority**[15].

In **Testeels Limited v. N.M. Desai, Conciliation Officer and another**[16], a Full Bench of the Gujarat High Court made a lucid enunciation of law on the subject, and we can do no better than to extract the relevant paragraphs of that judgment, which read as under:

> "There are two strong and cogent reasons why we must insist that every quasi-judicial order must disclose reasons in support of it. The necessity of giving reasons flows as a necessary corollary from the rule of law which constitutes one of the basic principles of our constitutional set-up. Our Constitution posits a welfare State in which every citizen must have justice—social, economic and political and in order to achieve the ideal of welfare State, the State has to perform

several functions involving acts of interferences with the free and unrestricted exercise of private rights. The State is called upon to regulate and control the social and economic life of the citizen in order to establish socio-economic justice and remove the existing imbalance in the socio-economic structure. The State has, therefore, necessarily to entrust diverse functions to administrative authorities which involve making of orders and decisions and performance of acts affecting the rights of individual members of the public. In exercise of some these functions, the administrative authorities are required to act judicially. Now what is involved in a judicial process is well settled and as pointed out by Shah J. in **Jaswant Sugar Mills's** case, AIR 1963 SC 677 supra, a quasi-judicial decision involves the following three elements:

(1) It is in substance a determination upon investigation of a question by the application of objective standards to facts found in the light of pre-existing legal rules;

(2) It declares rights or imposes upon parties obligations affecting their civil rights; and

(3) The investigation is subject to certain procedural attributes contemplating an opportunity of presenting its case to a party, ascertainment of facts by means of material if a dispute be on question of fact, and if the dispute be on question of law, on the presentation, of legal argument, and a decision resulting in the disposal of the matter on findings based upon those questions of law and fact.

Another reason of equal cogency which weighs with us in spelling out the necessity for giving reasons is based on the power of judicial review which is possessed by the High Court under Article 226 and the Supreme Court under Article 32. The High Court under Article 226 and the Supreme Court under Article 32 have the power to quash by certiorari a quasi-judicial order made by an administrative officer and this power of review exercisable by issue of certiorari can be effectively exercised only if the order is a speaking order and reasons are given in support of it. If no reasons are given, it would not be possible for the High Court or the Supreme Court exercising its power of judicial review to examine whether the administrative officer has made any error of law in making the order. It would be the easiest thing for an administrative officer to avoid judicial scrutiny and correction by omitting to give reasons in support of his order. The High Court and the Supreme Court would be powerless to interfere so as to keep the administrative officer within the limits of the law.

> The result would be that the power of judicial review would be stultified and no redress being available to the citizen, there would be insidious encouragement to arbitrariness and caprice. The power of judicial review is a necessary concomitant of the rule of law and if judicial review is to be made an effective instrument for maintenance of the rule of law, it is necessary that administrative officers discharging quasi-judicial functions must be required to give reasons in support of their orders so that they can be subject to judicial scrutiny and correction."

If the order under challenge is critically scrutinised in the light of the propositions of law laid down in the aforementioned decisions, we do not have the slightest hesitation to hold that the same is cryptic to the core.

It is not in dispute that in response to the notice dated 15.2.2007 issued by respondent No.1, the petitioner filed detailed reply-cum-objections to contest the proposed denial of exemption but without dealing with any of the objections, respondent No.1 passed the order under challenge. This is evinced from the following extract of the order:

> "Accordingly, a revised show cause notice dated 15-2-2007 was issued and the same was served on the dealer on 14-6-2007 inviting their objections if any to the notice. The dealer has filed their written objections on 18-6-2007. After carefully examined the contentions raised by the dealer is hereby rejected and revised proceedings orders passed as proposed in the show cause notice dated 15-2-2007 is confirmed."

In the result, the writ petition is allowed. The impugned order is quashed. However, liberty is given to respondent No.1 to pass fresh order after giving opportunity of hearing to the petitioner and recording reasons in support of his conclusions.

As a sequel to disposal of the writ petition, WPMP No.21524 of 2007 filed by the petitioner for interim relief is disposed of as

infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY,J

Dt.9.8.2007

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[1] AIR 1961 SC 1669
[2] AIR 1966 SC 671
[3] AIR 1967 SC 1606
[4] AIR 1970 1302
[5] AIR 1971 SC 862
[6] AIR 1976 SC 437
[7] AIR 1976 SC 1785
[8] AIR 1990 SC 1984
[9] (2000) 7 SCC 668
[10] (2004) 1 SCC 547
[11] (2004) 5 SCC 568
[12] (2004) 5 SCC 573
[13] (2004) 7 SCC 431
[14] (2005) 5 SCC 75
[15] (2005) 9 SCC 425
[16] AIR 1970 GUJARAT 1